

EXHIBIT 2

Edward Hiney
September 28, 2017

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C.A. No. 3:16-CV-30142-MGM

JUNIOR WILLIAMS :
Plaintiff, :
VS :
KAWASAKI MOTORS CORP., U.S.A., :
KAWASAKI HEAVY INDUSTRIES, LTD, :
AND SPRINGFIELD MOTOR SPORTS, LLC :
Defendants. :

DEPOSITION OF: OFFICER EDWARD HINEY

CATUOGNO COURT REPORTING

One Monarch Place, Suite 600

1414 Main Street

Springfield, Massachusetts 01144

September 28, 2017

(10:27 a.m. - 1:49 p.m.)

Amy J. Spangler
Court Reporter

CATUOGNO COURT REPORTING & STENTEL TRANSCRIPTIONS
Springfield, MA Worcester, MA Boston, MA Providence, RI

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1 true without measuring it?

2 A. Approximately that, yes.

3 Q. So you measured to what point on the arrow?

4 A. The beginning of the arrow, the bottom part
5 of the arrow.

6 Q. Okay. So the arrow --

7 A. Depending on where I measured it from, I
8 mean, it could have been anywhere from 130 to 135
9 feet depending on where I did the --

10 Q. As you sit here today, do you remember if
11 you measured -- it looks from your drawing like you
12 measured to the bottom of the arrow.

13 A. Correct. That's what it looks like to me.
14 I don't have a direct recollection, but the diagram
15 is depicting towards the bottom of the arrow.

16 Q. All right. So then on the right-hand side
17 of Page 21 of Exhibit 31, we have 1 second, 1.5
18 second, 59.090, and then we have 86.665. Can you
19 just tell us what was that meant to indicate?

20 A. The 1. -- 1 to 1 and a half seconds was
21 essentially how long it took from me watching the
22 video and on the time lapse how long it took the
23 motorcycle to go from the crosswalk to the first
24 painted arrow.

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1 **Q. I see. And 59.090 what is that?**

2 A. It's labeled as miles per hour, but I think
3 that's been mislabeled.

4 **Q. Okay. What is that?**

5 A. It should have been feet per second. The
6 bottom one is 88.665 FPS, feet per second, but
7 again, that should have been miles per hour.

8 **Q. I see. So if we turn to the next page,**
9 **Page 22, first of all, there is some handwriting at**
10 **the bottom it says AR Pro.**

11 A. Correct.

12 **Q. What is that?**

13 A. That is the accident reconstruction program
14 that our department has. I believe it stands for
15 accident reconstruction pro, and that would be the
16 version underneath, 8.10.2.204 and then it was a
17 2013 version that we had been using.

18 **Q. All right. So that was the most up-to-date**
19 **version you had?**

20 A. At the time, yes, sir.

21 **Q. And then if we go to the top of the page it**
22 **says average velocity with distance and time. This**
23 **was printed out from that program?**

24 A. Correct.

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1 A. Yes, sir.

2 Q. And what is that to indicate?

3 A. 59 -- well, 59.090 would be a calculation,
4 and mph would be abbreviation for miles per hour.

5 Q. And beneath that you have 86.665 FPS; is
6 that correct?

7 A. Yes, sir.

8 Q. And what does that indicate?

9 A. FPS would be an abbreviation for feet per
10 second, and 88.665 would have been a calculation
11 would have been probably mislabeled by myself.

12 Q. What's mislabeled?

13 A. It looks like 59.090 should have been feet
14 per second versus 86.665 should have been labeled
15 miles per hour.

16 Q. Oh, so looking at this today, you think the
17 calculation should have been 59.090 feet per second
18 equates to 86.665 miles per hour, correct?

19 A. That's what it appears to be based on the
20 AR Pro calculation.

21 Q. Okay. Do you know in your years of police
22 work when you do accident investigation, do you know
23 the rule of thumb multiplier between feet per second
24 and miles per hour?

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1 discussed that, did we not?

2 A. We did.

3 Q. And the marks on State Street would be the
4 across walk as well as the start of the left turn
5 arrow?

6 A. Yes, sir.

7 Q. Any other marks that you used to determine
8 speed?

9 A. No, sir.

10 Q. The estimated speed of both motorcycles
11 involved was calculated to be 80 to 90 miles an hour
12 just prior to this impact. That was the result of
13 your investigation, that opinion, correct?

14 A. Yes, sir.

15 Q. And based upon your training and
16 experience?

17 A. Yes, sir.

18 Q. And based upon your use of the AR software
19 that you had available to you in 2013 in Springfield
20 Police Department, correct?

21 A. Yes, sir.

22 Q. You stand by that estimate, do you not?

23 A. I do, sir.

24 Q. Do you believe it to be reasonably based

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1 You wrote that, correct?

2 A. I did write that, yes, sir.

3 Q. And as you sit here today -- I'm very
4 sensitive this was four years ago -- you don't
5 remember if you used a calculator or did it off the
6 top of your head or how you came to that?

7 A. I can't recall how I came to that.

8 Q. In your report, still on Exhibit 8, Page
9 27, and I'm reading from the last sentence in the
10 second full paragraph on the bottom it says, quote,
11 the estimated speed of both motorcycles involved was
12 calculated to be 80 to 90 mph just prior to this
13 impact. Do you see that?

14 A. Yes, sir.

15 Q. Were you influenced at all by the
16 eyewitnesses who had the speeds much lower than
17 that?

18 A. Was I -- I'm sorry, I don't understand the
19 question, I guess.

20 Q. You took a statement from an eyewitness by
21 the name of Los, turning now to Page 26, who said 40
22 miles an hour, correct?

23 A. This is Los.

24 Q. Page 26 of Exhibit 8?

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1 A. Yes.

2 Q. And Los, third line from the bottom of his
3 statement, he says 40 mph in quotes. Do you see
4 that?

5 A. I do. Yes.

6 Q. And you also spoke to Mr. Goodman, which is
7 Page 24, who said 45 to 50. Do you see that?

8 A. Yes, sir.

9 Q. When you wrote up your 80 to 90 on Page 27
10 in your report, did you take into consideration the
11 two eyewitnesses who had speeds half of that?

12 A. No, that didn't factor into my estimation.

13 Q. Still staying on Page 27, and I'm three
14 paragraphs from the bottom where you have bystanders
15 dragged the operator and the paragraph goes on. Do
16 you see that?

17 A. Yes, sir.

18 Q. Did you -- do you know who those people
19 were that dragged the -- according to this report
20 dragged the operator?

21 A. No, sir I do not.

22 Q. Do you know how you got that information,
23 the bystanders dragged the operator of the Kawasaki
24 motorcycle away from the resulting fire?

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1 MR. BUTLER: Objection.

2 BY MR. DURNEY:

3 Q. -- then to covered 130 feet, it has to be
4 going faster than 60, right?

5 A. That would be a fair assumption, yes.

6 Q. And in any case, even if the motorcycle --
7 even if your calculation were somehow wrong, and the
8 conclusion that you should have arrived at was that
9 the motorcycle was traveling at 60, how would that
10 relate to the posted speed on this road on the day
11 of the accident?

12 MR. BUTLER: Improper hypothetical.

13 THE DEPONENT: If you are saying he was
14 doing 60, that would have been double the speed
15 limit because the posted speed limit is 30 miles an
16 hour.

17 MR. DURNEY: Those are all the questions I
18 have for you today. Thank you.

19 EXAMINATION

20 BY MS. MCHUGH:

21 Q. Do you have Exhibit 8 in front of you?

22 A. Yes, I do.

23 Q. If you could look at Page 43 and 44,
24 actually I think the last two pages.

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1 I, AMY J. SPANGLER, Notary Public, do
2 hereby certify that Edward N. Hiney appeared before
3 me and satisfactorily identified himself on the 28th
4 day of September, 2017, at Catuogno Court Reporting,
5 One Monarch Place, 6th Floor, 1414 Main Street,
6 Springfield, Massachusetts 01144, and was by me duly
7 sworn to testify to the truth and nothing but the
8 truth as to his knowledge touching and concerning
9 the matters in controversy in this cause; that he
10 was thereupon examined upon his oath and said
11 examination reduced to writing by me; and that the
12 statement is a true record of the testimony given by
13 the witness, to the best of my knowledge and
14 ability.

15 I further certify that I am not a relative
16 or employee of counsel/attorney for any of the
17 parties, nor a relative or employee of such parties,
18 nor am I financially interested in the outcome of
19 the action.

20 WITNESS MY HAND THIS 11th day of October, 2017.
21
22

23 Amy J. Spangler
24 Notary Public

My Commission expires:
November 25, 2022

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